

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SANTOS CUEVAS, No. 6:18-CV-01973-JR

Petitioner, ORDER

v.

BRANDON KELLY,

Respondent.

Santos Cuevas
11207100
Oregon State Penitentiary
2605 State Street
Salem, OR 97310-0505

Pro se Petitioner

Kristen E. Boyd
Oregon Department of Justice
Trial Division
1162 Court Street NE
Salem, OR 97301-4096

Attorney for Respondent

HERNÁNDEZ, District Judge:

Magistrate Judge Russo issued a Findings and Recommendation [79] on October 23, 2019, in which she recommends that the Court deny Petitioner's Petition for Writ of Habeas Corpus. Petitioner timely filed objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

Petitioner objects to the Findings and Recommendation on numerous grounds, which are more fairly characterized as arguments that his constitutional rights were violated during the grand jury, trial, and post-trial proceedings of his underlying case. Obj. to F&R, ECF 83; Mot. Strike F&R, ECF 81; Mot. Evid. Hrg., ECF 82; Cuevas Aff., ECF 84; Reply Against Dismissal Req., ECF 86; Req. Judicial Not., ECF 87; Mot. Show Cause & Mot. Prelim. Inj., ECF 88. The Court carefully considered Petitioner's objections and other filings and concludes that Petitioner's filings do not provide a basis to modify the recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Russo's Findings and Recommendation [79]. Petitioner's Petition for Writ of Habeas Corpus [1], Motion for Evidentiary Hearing [71], Motion to Modify or Make Defense Available [72], and Motion for Appointment of Counsel [74] are

DENIED. The Court also DENIES: (1) Petitioner's Motion for Order to Show Cause, Issue an Emergency Pre-Injunction, and to Disqualify the Department of Justice [62]; Motion to Strike Response to Habeas Petition (2254) [64]; motion for preliminary injunction titled "Motion for Pre-Injunction and Relief Reinstatement to Protect Class of Victims First Amendment Rights" [70]; Motion to Strike Findings & Recommendation [81]; Motion for Evidentiary Hearing on Subject Matter Jurisdiction [82]; Request for Judicial Notice [87]; and Motion for Order to Show Cause and Motion for Preliminary Injunction [88].

IT IS SO ORDERED.

DATED December 23, 2019



MARCO A. HERNÁNDEZ
United States District Judge